

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: HSIAO, Cheng-Fang

SERIAL NO.: 10/688,185

ART UNIT: 2834

FILED: October 20, 2003

EXAMINER: Covas, Y.

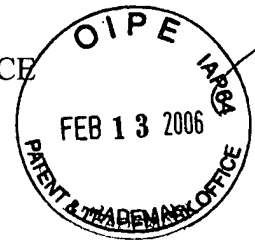
TITLE: DIRECT CURRENT BRUSHLESS VIBRATION MOTOR

PETITION FOR A QUESTION NOT SPECIFICALLY PROVIDED FOR
UNDER 37 C.F.R. § 1.182

Mail Stop Petitions
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

In accordance with 37 C.F.R. § 1.182, Applicant petitions for a question not specifically provided for, namely, correction of switched documents and information between mixed applications, including the correction of the identity of the inventor/Applicant.

1. U.S. Serial No. 10/688,185 (the '185 application) was filed on October 20, 2003. The listed inventor was "TSAI, Hung-Chi" and the title was "STRUCTURE FOR FASTENING ILLUMINATION TUBES OF A CLUSTER LAMP". This application contains eight pages of drawings and a nonpublication request. The attorney docket number was 1496-942.
2. U.S. Serial No. 10/687,115 (the '115 application) was filed on October 17, 2003. The listed inventor was "HSIAO, Cheng-Fang" and the title was "DIRECT CURRENT BRUSHLESS VIBRATION MOTOR". This application contains two pages of drawings and latter claims priority, such that a request to rescind the nonpublication request was filed. The attorney docket number was 1496-941.



3. The Office of Initial Patent Examination (OIPE) in the U.S. Patent and Trademark Office returned both acknowledgment post cards for each application without indicating any problem with the documents. See attached copies of cards.
4. However, there were serious problems with the documents because the contents of the '185 application and the '115 application were mixed. Applicant's attorney respectfully contends that the U.S. Patent and Trademark Office may have accidentally switched documents during scanning because Applicant's attorney submitted both applications, but the applications were sent by mail two days apart. OIPE returned acknowledgment post cards without noting any problems with documents submitted by the respective Applicants, but the actual specification, drawings and filing requirements were switched.
5. Even though the acknowledgments from the U.S. Patent and Trademark Office indicated differently, the '185 application became associated with the motor, and the '115 application became associated with the lamp. It appears that the specification, claims, drawings and filing requirements were switched because Applicant's attorney was contacted independently by both Examiners assigned to each case. The Examiner for the '115 application indicated that they were missing the specification, claims and drawings for the lamp. The Examiner for the '185 application indicated that they were missing the specification, claims and drawings for the motor.
6. There are several differences in page counts, drawings and nonpublication requests, but the switch between application numbers still occurred. The Examiners agreed to switch the assigned titles and docket numbers so that the motor Examiner (Comas)

would keep the motor invention and that the lamp Examiner (Sember) would keep the lamp invention so as to avoid further delays of being re-classified after being sent out of the respective Group.

7. Not all necessary documents and identifying information has been switched as agreed upon by the Examiners. The identity of the motor inventor has not been switched to "HSIAO, Cheng-Fang" for the '185 application. Additionally, the corresponding Declaration, certified copy of the priority document, and rescission of non-publication request have not been switched.
8. The Applicant for the lamp application was decided to allow the '115 application to become abandoned. Thus, there is no need to enter new documents into the abandoned application, although the problems with the documents can be noted in the '115 application records.
9. Applicant has prepared and previously submitted amended Application Data Sheets to clarify the information and documents to be switched. These documents are also attached hereto.
10. There is no need for new Declarations concerning the "name change" because the problem with the application is deeper than simply changing the name. The complete identity of the inventor is changed, and the proper Declaration was accidentally filed in an unrelated application.

Applicant respectfully requests the Commissioner to grant the Petition for a Question Not Specifically Provided For. The initial communications from OIPE indicated that the papers were properly received and associated with the serial numbers. Later contact by Examiner Sember and

Examiner Comas revealed the switched materials and subject matter. The Examiners' recommendations to resolve the problem should be followed, and all motor-related contents from the '115 application should now be consolidated into the '185 application.

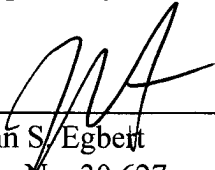
Applicant is again willing to provide whatever materials in the Applicant's possession in order to facilitate reconstruction of the file.

Applicant further petitions for a refund of the Petition fee of 37 C.F.R. § 1.17(h) because the Petition was necessitated by the switch of documents by the U.S. Patent and Trademark Office. Applicant has exercised diligence and patience in dealing with the Examiners over the past 2-3 years of exchanged communications. However, those informalities have not resulted in any positive resolution of this matter.

Applicant petitions for a question not specifically provided for, namely, correction of switched documents and information between mixed applications, including the correction of the identity of the inventor/Applicant. Pursuant to 37 C.F.R. § 1.17(h), the government fee of \$400 is enclosed herewith.

Respectfully submitted,

2.9.06
Date


John S. Egbert
Reg. No. 30,627
Andrew W. Chu
Reg. No. 46,625

Customer No. 24106

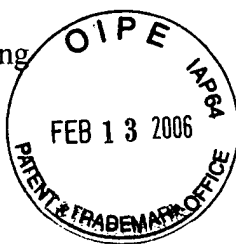
Attorney for Applicant
Egbert Law Offices
412 Main Street, 7th Floor
Houston, Texas 77002
(713)224-8080
(713)223-4873 (Fax)

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CERTIFICATE OF MAILING

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Sir:

I hereby certify that the attached correspondence comprising:

PETITION FOR A QUESTION NOT SPECIFICALLY PROVIDED FOR
UNDER 37 C.F.R. § 1.182

is being deposited with the United States Postal Service with sufficient postage as first class mail
in an envelope addressed to:

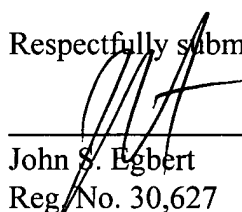
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on **FEB 10 2006**

FEB 10 2006
Date

Customer No. 24106

Respectfully submitted,



John S. Egbert
Reg. No. 30,627
Andrew W. Chu
Reg. No. 46,625
Attorney for Applicant
Egbert Law Offices
412 Main Street, 7th Floor
Houston, Texas 77002
(713)224-8080
(713)223-4873 (Fax)